

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LINWOOD BRANT,)	
)	
Plaintiff,)	Civil Action No. 04-1584
)	
v.)	Judge Flowers-Conti
)	Magistrate Judge Caiazza
WEXFORD HEALTH CARE SERVICES,)	
<i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

Linwood Brant's complaint pursuant to 42 U.S.C. §1983 was filed on October 15, 2004, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on June 19, 2007, noted that the Plaintiff had not responded to the Defendants' Motion for Summary Judgment after repeated orders to do so, considered the motion on its merits, and recommended that the motion be granted. The parties were allowed ten days from the date of service to file objections. The Plaintiff filed Objections on July 9, 2007 (Doc. 145), in which he asserts only that he was waiting for a ruling on his motion seeking appointment of counsel before responding to the Defendants' Motion for Summary Judgment. The Defendants filed a Response to the Plaintiff's Objections (Doc. 146) on July 10, 2007, noting that the motion for appointment of counsel was denied on June 5,

2007, and that the Court had been attempting to obtain a response to the motion for summary judgment since it was filed in February, 2007. Indeed, the Magistrate Judge denied motions for appointment of counsel twice previously (Docs. 22 and 140), and granted the Plaintiff an extension of time to file a response to the Motion for Summary Judgment (Doc. 138). The Plaintiff has had ample time to respond to the motion, and the Magistrate Judge's decision to rule on the motion without a response was proper. Hence, the only objection raised by the Plaintiff lacks merit.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections and the Response to Objections, the following order is entered:

AND NOW, this 6th day of August, 2007,

IT IS HEREBY ORDERED that the Defendants' Motion for Summary Judgment (Doc. 134) is GRANTED.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 144), dated June 19, 2007, is adopted as the opinion of the court.

s/Joy Flowers Conti
Joy Flowers Conti
U.S. District Court Judge

CC:

LINWOOD BRANT

ET-2108

SCI Coal Township

1 Kelley Dr.

Coal Township, PA 17866